

**CHARTER TOWNSHIP OF KINROSS
QUARRYING ORDINANCE**

ORDINANCE NO. 47

CHARTER TOWNSHIP OF KINROSS

COUNTY OF CHIPPEWA, STATE OF MICHIGAN

An ordinance to regulate quarrying operations involving the extraction and/or removal of any natural materials from the ground within the Charter Township of Kinross and to repeal Charter Township of Kinross Quarrying Ordinance NO 47 A.

Adopted:

FINDING IT NECESSARY FOR THE PUBLIC'S HEALTH, SAFETY AND GENERAL WELFARE, THE CHARTER TOWNSHIP OF KINROSS ORDAINS:

TITLE: This Ordinance shall be known and cited as the Charter Township of Kinross Quarrying Ordinance, Ordinance NO. 47.

PURPOSE: To provide standards to award a permit for, and regulate, the removal of any natural materials from the ground within the geographical confines of the Charter Township of Kinross.

DEFINITIONS

QUARRY: Any excavation from which any natural materials are extracted and/or removed from the ground, for any purpose, to be transported off the site of extraction and/or removal.

QUARRY OPERATOR: An individual who operates a quarry and/or, in the case of a corporation or other business entity, an individual designated by the corporation or other business entity to serve as quarry operator on its behalf who shall have all the responsibility(s), duty(s) and/or liability(s) imposed upon a quarry operator by virtue of this ordinance.

EXCAVATION SITE: The area defined by its circumference where the ground is disturbed and/or dug up to extract and/or remove natural materials as part of any quarry operation(s).

EXPANSION OF QUARRY OPERATIONS: Any increase in the size of the circumference of the excavation site.

FENCE: A properly maintained structure or barrier, which is sufficient to impede intruders including particularly children.

RECLAMATION: The process, method and/or end result by which the land will be returned to its normal state as is prudent after quarry operations cease.

ORDINANCE ENFORCEMENT OFFICER: Any Township official so designated by the Charter Township of Kinross Board of Supervisors to enforce the requirements of this ordinance.

Section 1. PERMIT REQUIREMENT

- 1.1 It shall be unlawful to operate a quarry and/or expand quarry operations without first obtaining a permit from the Township as required by this ordinance.
- (A) Excavation in conjunction with farming operations conducted in accordance with generally accepted agricultural practices including agricultural drainage work incidental to farming operations and/or the creation of stock watering ponds, if no material is removed from the property;
 - (B) Excavation, which by its nature is of limited scope and duration, which is undertaken solely for the purpose(s) of the immediate use and occupancy of the land by the landowner, such as to construct a home, building(s), septic tank, swimming pool and/or other similar limited excavations related to residential use(s) of the property; and/or
 - (C) Excavation conducted at the behest of a governmental entity in conjunction with the installation and/or maintenance of publicly owned and/or operated utilities, drains, roads or other improvements where the excavation is limited to the site of the public utility, drain, road and/or improvement.

Section 3. PERMIT APPLICATION

A permit application, pursuant to this ordinance, shall be submitted by the quarry operator prior to the commencement of any quarry operations and/or prior to the expansion of quarry operations and at least annually thereafter on a form approved by the Township Planning Commission that contains at least the following information:

- 3.1) The specific location of the proposed quarry, identification of the landowner by name, address and telephone number and identification of the proposed quarry operator by name, address and telephone number;
- 3.2) The proposed season(s), months, days and hours of quarry operation(s) and the expected future duration of any quarry operation(s);

- 3.3) How the quarry operator intends to secure, protect and maintain the quarry site at all times to protect the health, safety and/or general welfare of the public;
- 3.4) A description of the proposed quarry operations and identification of the materials to be extracted and/or removed;
- 3.5) A site plan in accordance with this ordinance;
- 3.6) A reclamation plan in accordance with this ordinance; and
- 3.7) Any other information required by the Township Zoning Administrator, Township Planning Commission, Township Ordinance Enforcement Office and/or Township Board of Supervisors, as circumstances may require.

Section 4. SITE PLAN

A site plan shall be submitted with the permit application required by this ordinance which contains at least the following information:

- 4.1) A copy of a certified survey of the property identifying the specific location of the quarry site;
- 4.2) A copy of the most recent Chippewa County Plat Book page(s) identifying the specific location of the quarry site;
- 4.3) Identification of any and all materials to be extracted and/or removed as part of quarry operations;
- 4.4) Proposed method(s) by which materials will be extracted and/or removed as part of quarry operations;
- 4.5) Location, width and grade of all utility, road and/or any other easements or right of ways of record and/or used for any purpose located on the quarry site and/or immediately adjacent thereto;
- 4.6) A map showing all intended access routes from the proposed quarry operations to the nearest public and/or private road(s);
- 4.7) A map showing the location of all structures on the property where the quarry operations are to be conducted;
- 4.8) A description, and map showing the location, of all proposed fencing, gates, parking areas and/or signs as required by this ordinance and/or deemed necessary by the Township Zoning Administrator, Township Planning commission,

Township Ordinance Enforcement Officer and/or Township Board of Supervisors;

- 4.9) A description, and map showing the location of all materials processing and storage areas;
- 4.10) How the quarry operator intends to control dust on all roads intended to serve as the means of ingress and egress to the quarry site;
- 4.11) Any other information deemed necessary by the Township Zoning Administrator, Township Planning Commission, Township Ordinance Enforcement Officer and/or Township Board of Supervisors, based upon the specific facts and/or circumstances of the proposed quarry operations; and
- 4.12) Copies of any permits required by any other law(s), rule(s), regulations(s) and/or governmental entity(s) the application and/or issuance of which shall be the exclusive responsibility of the quarry operator.

Section 5. CONSENSUAL DUTIES

By applying for, and/or receiving, the permit required by this ordinance, the quarry operator consents to, and assumes, the following duties during the permit application process and/or during the permit period:

- 5.1) To provide all information required by this ordinance in a truthful, accurate, complete and forthcoming fashion;
- 5.2) To provide supplemental correct information if and when any information provided changes, becomes inaccurate and /or becomes incomplete;
- 5.3) To notify the Township Ordinance Enforcement Officer if and when any quarry operations violate this ordinance and/or the requirements of the permit required by this ordinance;
- 5.4) To notify the Township Ordinance Enforcement Officer if and when any complaints are made by any member of the public in any way arising out of quarry operations;
- 5.5) To allow the Township Zoning Administrator, Township Ordinance Enforcement Officer and/or any member of the Township Board of Supervisors and/or Township Planning Commission to come on the quarry site to inspect quarry operations at any time with or without prior notice;
- 5.6) To immediately cease quarry operations if and when the permit awarded pursuant to this ordinance is suspended and/or revoked;

- 5.7) To notify the Township Ordinance Officer if and when any other required permit(s) issued by any other governmental entity(s) is suspended, revoked and/or expires;
- 5.8) To comply with all time deadlines imposed by this ordinance and/or the Township Zoning Administrator, Township Ordinance Enforcement Officer, Township Planning Commission and/or the Township Board of Supervisors;
- 5.9) To appear before the Township Planning Commission and/or Township Board of Supervisors if requested and/or demanded to do so;
- 5.10) If deemed necessary by the Township Board of Supervisors at any time, based upon the facts and/or circumstances of the proposed quarry site and/or quarry operations, to provide and environmental impact study and/or any other study the associated expense(s) of which shall be solely the responsibility of the quarry operator.

Section 6. QUARRY OPERATIONS

The following requirements shall be mandatory for all quarry operations and shall be incorporated into every permit awarded pursuant to this ordinance as mandatory conditions:

- 6.1) A fence as defined by this ordinance shall be installed and maintained completely around the circumference of the excavation site;
- 6.2) The extraction and/or removal of materials shall not take place within 300 feet of an occupied structure(s) without the written consent of the owner of the structure(s) a copy of which shall be provided to the Township Ordinance Enforcement Office;
- 6.3) A gate(s) shall be installed and maintained at all points of ingress and egress to the quarry site which shall be kept locked at all times when quarry operations are not in progress;
- 6.4) Any roads used for the purpose of ingress and egress to the quarry site shall be kept free of dust by either paving the roadbed with cement or bituminous substance or by applying an appropriate chemical treatment at sufficient intervals;
- 6.5) The slopes of the banks of any excavation site shall not exceed three (3) feet horizontal to one (1) foot vertical;
- 6.6) No cut or excavation shall be made closer than fifty (50) feet from any property line, right-of-way line, or easement, provided, however, that the Township Zoning Administrator, Township Ordinance Enforcement Officer and/or Township Board of Supervisors may impose stricter requirements to maintain sufficient sub-lateral

- support to surrounding property where soil and/or geographic conditions warrant to prevent cave-ins and/or damage(s) to adjacent property(s);
- 6.7) No material(s) shall be remove in such a manner as to cause water to collect and pool except as specifically allowed as a condition of the permit;
 - 6.8) Quarry operations shall at all times be conducted in a manner so as to not create a danger or menace to the public health, safety and/or general welfare;
 - 6.9) Topsoil removed at the outset of quarry operations shall be stockpiled on the quarry site. When quarry operations are complete and/or if the quarry permit is permanently revoked pursuant to this ordinance, the excavation site shall be covered with sufficient soil to maintain plant life after reclamation;
 - 6.10) Signs providing “DANGER-KEEP OUT” in sufficient size to be seen from fifty (50) feet shall be posted around the perimeter of the quarry site at intervals not to exceed fifty (50) feet; and
 - 6.11) A quarry operator shall, at all times, have in effect a policy of liability insurance providing coverage(s) in an amount and under conditions as found appropriate from time to time by the Township Board of Supervisors;
 - 6.12) The Township Board of Supervisors may impose further and/or other requirements and/or conditions on quarry operations as circumstances may require to protect the public health, safety and/or general welfare.

Section 7. RECLAMATION PLAN

A reclamation plan shall be submitted with the permit application required by this ordinance which contains at least the following information and/or requirements:

- 7.1) A statement of planned reclamation, including the methods of accomplishment, phasing, timing, and itemized estimated cost along with the identification by name, address and telephone number of any and all individuals who, in addition to the reclamation plan and/or any and all reclamation activity(s);
- 7.2) The reclamation plan shall require that once quarry operations are complete and/or the permit required by this ordinance is permanently revoked, the quarry site shall be returned to the state it existed before quarry operations began, as is prudent and/or pursuant to the provisions of the reclamation plan;
- 7.3) Sufficient and appropriate fill materials shall be placed at the quarry site so as to prevent the accumulation of pooled water unless the reclamation plan, properly approved by the Township Board of Supervisors and any other governmental entity whose approval is required by law, provides, and the law allow, for the

- creation of pond, lake or pool of water as part of reclamation and, in that event, sufficient materials shall be placed so as to create a grade not to exceed three (3)
- 7.4) In any event, sufficient and appropriate fill materials shall be placed at the excavation site so as to create a grade not to exceed three (3) feet horizontal to one (1) foot vertical throughout the excavation site to its lowest point;
 - 7.5) Sufficient and adequate materials shall be placed within one (1) year after quarry operations are complete and/or the quarry permit is permanently revoked, so as to promote and/or sustain the growth of vegetation and/or plant life throughout the excavation site;
 - 7.6) Sufficient vegetation and plant life, as provided in the reclamation plan, shall be planted and established within two (2) years after quarry operations are complete and/or the quarry permit is permanently revoked and, in any event, shall be repeated as many times and as long as necessary to establish viable vegetation and/or plant life throughout the excavation site before the reclamation process may be certified as complete.
 - 7.7) A phasing plan, if the excavation of the site is to be accomplished in phases throughout the life of quarry operations, shall be a part of the reclamation plan and shall describe the area, activity(s), extent and timing of each phase;
 - 7.8) A description of how any and all equipment and/or structures used in quarry operations will be disposed of after quarry operations are complete and/or the quarry permit is permanently revoked;
 - 7.9) The quarry operator shall be responsible for all reclamation activities and the reclamation plan shall so provide;
 - 7.10) The quarry operator shall be responsible for all costs associated with reclamation and the certification that the reclamation process has been completed and is successful;
 - 7.11) The quarry operator shall be responsible for showing, to the satisfaction of the township Ordinance Enforcement Office, that all permits of any kind have been complied with before reclamation may be certified as complete; and
 - 7.12) Reclamation will not be considered complete unless and until so certified by the Township Ordinance Enforcement Office.

Section 8. STANDARDS FOR APPROVAL OF PERMITS

- 8.1) A permit shall not be issued unless it is found that the issuance of the permit will not detrimentally affect the health, safety and/or general welfare of the public, the quarry operator has shown that the requirements of this ordinance have been met,

a complete application has been submitted, all plans required by this ordinance have been submitted and approved, all other applicable laws have been complied with and all other necessary permits and/or approvals have been obtained by the quarry operator.

- 8.2) A permit will not be issued unless and until it is recommend by the Township Ordinance Enforcement Officer and/or approved by the Township Board of Supervisors.
- 8.3) The following factors shall be considered before a permit approved:
 - (A) The impact of the proposed quarry operations on the surrounding areas, nearby residents, water quality, land and/or air quality including any pollution that may result;
 - (B) The need to extract and/or remove the natural materials identified in the permit application and any alternate solutions not requiring removal;
 - (C) The nature of, extent and amount of valuable topsoil to be removed;
 - (D) The extent to which the proposed quarry operations may destroy, lessen and/or effect the use of the land including land surrounding the proposed quarry site;
 - (E) The extent to which the proposed reclamation may create different, additional and/or desirable use(s) of the land;
 - (F) The extent to which the proposed quarry operations may create safety hazards and/or attract children to the quarry site at the risk of injury or death;
 - (G) The effect of noise created by proposed quarry operations and the willingness and ability of the quarry operator to keep noise to a minimum;
 - (H) Whether the proposed quarry operations and/or plans required by this ordinance comply with existing laws including, but not limited to, Chippewa County and/or State of Michigan soil erosion and/or waste management plans and/or standards; and
 - (I) Whether the purpose(s), intent, requirements and/or objectives of this ordinance would be served by awarding the permit.
- 8.4) A permit shall be issued in the name of the quarry operator.

Section 9. PERMITS

- 9.1) Permits shall be awarded for a period not to exceed one (1) year which shall expire on December 31 unless renewed by December 31.
- 9.2) A renewal permit application shall be submitted in the same form pursuant to the same requirements as the original, no later than September 30. Upon sworn certification by the quarry operator that all information contained in, and submitted with, the original permit application remains true, accurate and complete in every respect, that application may be re-submitted as a renewal application.
- 9.3) Any and all permits, after approved by the Township Board of Supervisors, shall be signed by the Township Zoning Administrator and the Chairman of the Township Planning Commission.

Section 10. PERMIT FEES

- 10.1) A fee, depending on size and scope of the proposed operations, as established by the Township Board of Supervisor, to defray the cost of engineering services, investigations, publication and other miscellaneous administrative expenses shall accompany each application for a quarrying permit and/or renewal permit.
- 10.2) An annual inspection fee as may be established by the Township Board of Supervisors shall also accompany each application for a renewal permit.

Section 11. RENEWAL STANDARDS

- 11.1) The following factors shall be considered before a renewal permit is awarded:
 - (A) Whether the quarry operator is, and has been, in compliance with all provisions of this ordinance, the most current permit application, all plans submitted and any and all conditions of previous permits issued pursuant to this ordinance;
 - (B) Whether the quarry operator is, and has been, in compliance with all applicable laws, rules and/or regulations and other permits;
 - (C) Whether the quarry operator is, and has been, complying and cooperating with the Township Ordinance Enforcement Officer by providing all requested information in truthful, accurate, timely and complete manner;
 - (D) Whether the quarry operator is, and has been, allowing open, unfettered onsite inspections with or without prior notice; and

- (E) The nature and extent of any complaints received in any way arising out of quarry operations.
- 11.2) A copy of the original site and reclamation plan with any changes clearly noted including any required approval(s) and/or signature(s) shall be submitted with any permit renewal application.
- 11.3) A Site Plan and Reclamation review shall be conducted no later than May 1st of the first year of quarry operations and least once every five (5) years thereafter by the Township Ordinance Enforcement Officer and Township Planning Commission who shall report to the Township Board of supervisors.

Section 12. PERMIT SUSPENSION, HEARING AND REVOCATION

- 12.1) The Township Ordinance Enforcement Officer shall have the power to suspend a permit for violation(s) of any of the provisions of and/or duty(s) imposed by this ordinance.
- 12.2) Before a permit issued pursuant to this ordinance is suspended, a written warning shall be provided by the Township Ordinance Enforcement Officer to the quarry operator describing the violation(s) and demanding the at the violation(s) be corrected within fourteen (14) days. A copy of the warning shall be forwarded to the Chairman of the Township Planning Commission and the Township Supervisor. If the violation(s) has not been corrected within fourteen (14) days, the Township Ordinance Enforcement Officer shall suspend the quarrying permit, notify the quarry operator in writing that the permit has been suspended, that all quarrying operations shall cease, that all quarry gates shall be closed and locked and that a special meeting of the Township Board of Supervisors will be convened within twenty-one (21) days when the quarry operator shall appear before the Board to show cause why the quarry permit should not be revoked.
- 12.3) Notwithstanding the above, the Township Ordinance Enforcement Officer may, under circumstances that impose an immediate threat to the health and/or safety of the public, suspend a quarrying permit and immediately notify the quarry operator and Township Supervisor of the suspension who shall convene a special meeting of the Township Board of Supervisors to address the facts and/or circumstances leading to the suspension.
- 12.4) Failure to cease all quarrying operations upon notice that the quarrying permit has been suspended shall constitute grounds for immediate and permanent revocation of the quarrying permit.
- 12.5) If a permit issued pursuant to this ordinance is suspended, the suspension will remain in effect until a special meeting of the Township Board of Supervisors is convened, within twenty-one (21) days, when the quarry operator shall appear and show cause as to why the quarrying permit should not be revoked. The Board

- 12.6) shall consider the facts and circumstances leading to the violation(s), the history of any violation(s), the seriousness of the violation(s), the nature of any threat to the health, safety and general well-being of the public imposed by the violation(s), the history of any violation(s) by the quarry operator, whether the quarry operator appeared at the special meeting and the explanation(s) offered by the quarry operator to determine appropriate action to be taken including, but not limited to, further suspension of the permit while further information is developed, revocation of the permit, lifting the suspension, lifting the suspension with restrictions it deems appropriate, requiring a performance bond on conditions it deems appropriate, assessment of costs incurred to further investigate the violation(s) and/or test and/or monitor quarry operations and any other action it deems appropriate under the circumstances.

Section 13. PENALTY

- 13.1) Any person, firm and/or corporation found to have operated a quarry without a valid permit required by this ordinance shall be guilty of a misdemeanor and subject to a fine of not more than five hundred dollars (\$500.00) or imprisonment in the county jail for a period not to exceed ninety (90) days, or both fine and imprisonment. Each day that a violation continues to exist shall constitute a separate violation of this Ordinance.
- 13.2) The Township Ordinance Enforcement Officer, pursuant to the authority granted herein shall take all action necessary to enforce the terms of this ordinance and to protect the health, safety and general well-being of the public including, with approval of the Township Board of Supervisors, seeking injunctive relief in a court of competent jurisdiction.

Section 14. SEVERABILITY

- 14.1) The provisions of this Ordinance are hereby declared to be severable and if any clause, sentence, section or provision is declared void and/or unenforceable, for any reason, by a court of competent jurisdiction, the remaining portions of said Ordinance shall remain in full force and effect.

Section 15. ORDINANCE REPEAL

- 15.1) Kinross Charter Township Ordinance No. 47A adopted on June 18, 2001 is hereby repealed.

Section 16. EFFECTIVE DATE

- 16.1) This Ordinance shall become effective 30 days after adoption and publication.

Marvin Besteman Jr., Clerk

Jason Oberle, Supervisor